IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 452 of 2005

Between:

D.Mysaiah S/o.Danaiah
R/o.Godavarikhani Karimnagar District.

..... PETITIONER

AND

1 A.P.S.R.T.C Rep., by its Vice Chairman and Managing Director Musheerabad, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C Godavarikhani, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions more in the nature of writ of Mandamus, declaring the notification dated 1-9-2004 as illegal and arbitrary and set aside the same and further direct the respondents herein to continue the petitioner in service upto 10-9-2005 with all benefits.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondents No.1 & 2: SMT.P.RAJANI REDDY, SC for A.P.S.R.T.C.

The Court, at the stage of admission, made the following:

Oral order:-

Treating the petitioner's date of birth as recorded in the service records as 14-02-1947, the 2nd respondent issued a notification dated 01-09-2004 intimating the petitioner's date of superannuation as 28-02-2005, as he would attain the age of superannuation of 58 years on 13-02-2005. The petitioner claims that his actual date of birth, as per school records, is 10-09-1947, that this was known to the respondents, but erroneously his date of birth was recorded as 14-02-1947.

After the receipt of the notification dated 01-09-2004, the petitioner submitted an application/representation to the 1st respondent on 16-09-2004 to call for the records and to correct the petitioner's date of birth from 14-02-1947 to 10-09-1947 and pending consideration of such application to interdict the petitioner's superannuation with effect from 28-02-2005, as notified by the notification dated 01-09-2004. After having preferred such an inter departmental remedy, the petitioner has filed this writ petition seeking invalidation of the notification dated 01-09-2004.

In the factual matrix above, the more appropriate remedy for petitioner is to pursue his representation before the 1st respondent. The dispute as to the petitioner's date of birth does not normally have an adjudicative disposition before this court under Article 226 of the Constitution of India. In the circumstances, this court is not inclined to adjudicate upon the grievance urged herein. The writ petition is accordingly disposed of directing the 1st respondent to expeditiously and preferably, within a period of four weeks from today, dispose of the petitioner's application/representation dated 16-09-2004 for correction of his date of birth, in accordance with law and whatever administrative instructions or statutory rules that are applicable in such circumstances.

The writ petition is, accordingly, disposed of at the stage of admission. No costs.

GODA RAGHURAM, J

Dt. 24-01-2005

Pvks/*

To

1. The Vice Chairman and Managing Director, A.P.S.R.T.C, Musheerabad, Hyderabad.
2. The Depot Manager, A.P.S.R.T.C Godavarikhani, Karimnagar District.

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